



THE UNIVERSITY of
NEW ORLEANS
OFFICE OF THE PRESIDENT

January 25, 2019

James B. Henderson
President
University of Louisiana System
1201 North Third Street
Baton Rouge, LA 70802

Re: MOU between Hynes Charter School Corporation and UNO

Dear Dr. Henderson,

I am requesting approval of an MOU between Hynes Charter School Corporation, Friends of Hynes and the University of New Orleans with the intent to execute a Lease, Sublease and other mutually beneficial future agreements.

Thank you for your consideration.

Sincerely,

John W. Nicklow
President

MEMORANDUM OF UNDERSTANDING

This **MEMORANDUM OF UNDERSTANDING** ("**MOU**") is made and entered into as of _____, 2019 by and among Hynes Charter School Corporation, a Louisiana nonprofit corporation ("**Hynes**"), Friends of Hynes, a Louisiana nonprofit corporation ("**Friends of Hynes**"), and University of New Orleans ("**UNO**"), a public Louisiana university under the management and control of the Board of Supervisors (the "**Board**"), the governing Board for the University of Louisiana System ("**UL System**") by operation of law, collectively the "**Parties**".

RECITALS

WHEREAS, Hynes is a Louisiana nonprofit formed for the purposes of operating charter schools in Orleans Parish, Louisiana and providing quality education shaping leaders for a changing world;

WHEREAS, Hynes is authorized to operate a new charter school called Hynes Charter School at UNO in Orleans Parish, Louisiana (the "**Charter School**") pursuant to that certain Type 1 Charter School Operating Agreement with an Effective Date of July 1, 2019 (the "**Charter Agreement**"), a true and correct copy of which is attached hereto as Exhibit A;

WHEREAS, Friends of Hynes is a Louisiana nonprofit corporation formed for the purpose of providing support to Hynes and is a type II supporting organization to Hynes;

WHEREAS, UNO is a Louisiana university created by operation of law for the purpose of serving national and international students and enhancing the quality of life in New Orleans, the state, the nation, and the world, by participating in a broad array of research, service learning, cultural and academic activities;

WHEREAS, UNO will submit this MOU for approval to the UL System Board at its February 22, 2019 meeting to proceed with the development and execution of a lease agreement (the "**Lease**") for property on the campus of UNO, to be more fully identified in the Lease, to Friends of Hynes who in turn will design and construct, at its sole cost, a facility to house a charter school and will execute a sublease (the "**Sublease**") with Hynes to provide quality education for K-8th students in the area.

WHEREAS, UNO desires to execute the Lease to Friends of Hynes of a certain parcel of property on UNO's campus, to be determined, for One Dollar (\$1.00) per year, under the authority granted to it in accordance with La. R.S. 17:3361, for the purpose of constructing the new school building or buildings (the "**Project**"), which upon completion will be leased by Friends of Hynes to Hynes, for a term no less than the term of the Charter Agreement, for Hynes to use in the operation of the Charter School with the terms and conditions of the lease mutually acceptable to UNO through its Board, Friends of Hynes and Hynes and proceeding in accord with the legal requirements under La. R.S. 17:3361. ;

WHEREAS, the Project will result in positive exposure of UNO's commitment to the community and offer benefits to the UNO community, its faculty, staff and students in a number

of ways, including but not limited to: energizing course offerings for next generation teachers, including expanded research and observation opportunities with elementary students; additional enrollment by Hynes faculty and staff, an increased pipeline (Hynes and BFHS graduates) to UNO – a PK-20 site; opportunities for collaborative efforts to provide professional development offerings for city charter schools; increase accessibility for children of UNO employees to high quality elementary education opportunities; provide collaborative grant opportunities with increased funding for programs and research; exploration of possible shared service agreements with economic savings (food, utilities, IT, facilities, etc.) and access to K-8 summer camp enrollment.

WHEREAS, in consideration of UNO's Lease of Project Parcel to Friends of Hynes, Hynes desires to provide to UNO an enrollment preference for dependent children of UNO's permanent employees pursuant to LSA-RS § 17:3991.1; and

WHEREAS, Hynes, Friends of Hynes and UNO desire to enter into this MOU in order to memorialize the foregoing Recitals and the other terms and conditions provided for herein pursuant to LSA-R.S. 17:3991.1 to evidence their intent to execute a Lease and Sublease in accordance with R.S. 17:3361, et seq. and to enter into future agreements of benefit to the Parties.

AGREEMENT

NOW, THEREFORE Hynes, UNO and Friends of Hynes enter into this MOU to evidence their intent to execute a Lease, Sublease and other mutually beneficial future agreements:

Section 1. Covenants of UNO. UNO covenants and agrees:

- (a) to execute the Lease of the agreed upon Project Parcel to Friends of Hynes at the cost of One Dollar (\$1.00) annually, to be used solely for the purpose of the construction of the Project;
- (b) the Project Parcel will be property on the UNO's main lakefront campus to be agreed upon by the Parties hereto and identified in the mutually-agreed upon Lease upon execution by the Parties that consists of at least ____ acres and is accessible for school traffic demands;
- (c) to identify mutually beneficial projects with Hynes including professional development, programming and sponsorship of associated events and activities in betterment of Hynes, its staff and its students and UNO; and
- (d) to execute any and all documents necessary to consummate the transactions contemplated herein.

Section 2. Covenants of Friends of Hynes. Friends of Hynes covenants and agrees:

(a) to enter into referenced mutually-agreeable Lease with UNO, for the purpose of construction of the Project;

(b) to pursue in good faith the financing and construction the Project on Project Parcel;

(c) to share with Hynes responsibility for all ordinary upkeep, maintenance and repairs of the leased premises, except for any repairs which are necessitated in whole or in part through the fault or neglect of UNO and to provide, install and pay for all cost and expenses associated with equipment necessary to conduct the charter school business on the leased premises.

(d) once the Project is complete, to enter into a Sublease agreement with Hynes for use the Project Parcel and Project for the operation of the Charter School for a term not less than the duration of the Charter Agreement; and

(e) to execute any and all documents necessary to consummate the transactions contemplated herein.

Section 3. Covenants of Hynes. Hynes covenants and agrees:

(a) to operate the Charter School in accordance with its Charter Agreement;

(b) to execute a Sublease with Friends of Hynes for the Project Parcel and Project and to use such property in the operation of the Charter School;

(c) to include in the Charter Agreement appropriate provisions wherein Hynes agrees to a fifteen (15%) percent enrollment preference for dependent children of permanent employees of UNO, as the definition of permanent employees is determined by UNO; and

(d) to execute any and all documents necessary to consummate the transactions contemplated herein.

Section 4. The Project. The Parties agree that the Project construction shall proceed under the legal parameters of R.S. 17:3361 subject to all applicable laws, with Hynes and Friends of Hynes design models with structural design standards reviewed by State facility Planning to ensure International Building codes and ADA standards are incorporated.

Section 5. The Charter School. The Parties agree that, subject to the terms and conditions of the Charter Agreement, Hynes will have exclusive control over all operational aspects of the Charter School, including, but not limited to, academics, human resources, and contracts with service providers.

Section 6. Enforcement.

Section 6.1. MOU is a Preliminary Understanding. The preliminary understandings expressed in this MOU are subject to and conditioned upon (a) the negotiation and execution by the Parties of a mutually-acceptable Lease and Sublease, (b) Friends of Hynes securing satisfactory financing for the Project and (c) Hynes obtaining and maintaining the "Charter Agreement".

Section 6.2. Remedies for Breach. In the event that any party breaches this MOU, the sole and exclusive remedy will be termination of this MOU; provided that the party breaching this MOU shall be given written notice and a reasonable opportunity to cure its breach (such opportunity to cure not to exceed 90 days from receipt of written notice of breach).

Section 7. Miscellaneous.

Section 7.1 Assignment. This MOU is personal to each of the Parties hereto, and neither party may assign or delegate any rights or obligations hereunder without first obtaining the written consent of the other party.

Section 7.2 Amendments, Supplements, and Modifications. No amendment or modification to this MOU shall be valid unless and until executed in writing by the duly authorized representatives of each party to this MOU.

Section 7.3 Third Party Beneficiaries. This MOU is entered into for the exclusive benefit of the Parties, and the Parties expressly disclaim any intent to benefit anyone not a party hereto.

Section 7.4 Negation of Partnership, Joint Venture and Equity Interest. Except to the extent necessary for UNO to qualify under LSA-RS § 17:3991.1C, nothing contained in this MOU shall constitute or be construed to be or to create a partnership, joint venture or other venture among Hynes, Friends of Hynes and/or UNO.

Section 7.5 Headings. The headings of this MOU are for convenience of reference only and shall not form part of, or affect the interpretation of, this MOU.

Section 7.6 Severability. In the event that any provision of this MOU is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any provision hereof which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

Section 7.7 Execution in Counterparts. This MOU may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

Section 7.8 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Louisiana.

Section 7.9 Recitals. The foregoing recitals are hereby incorporated into and made a part of this MOU, including all defined terms referenced therein.

[Signatures to Follow]

[Signature Page to MOU]

IN WITNESS WHEREOF, the undersigned have executed this MOU as of the ____
day of _____, 2019.

HYNES CHARTER SCHOOL CORPORATION

By: _____

Name: _____

As Its: _____

FRIENDS OF HYNES

By: _____

Name: _____

As Its: _____

UNIVERSITY OF NEW ORLEANS

By: _____

Name: _____

As Its: _____

EXHIBIT A
CHARTER AGREEMENT